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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/154449

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 30, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on March 04, 2014, at Racine, Wisconsin.

The issue for determination is whether the Racine County Department of Human Services (the agency) correctly terminated Petitioner's FoodShare benefits, effective January 1, 2014.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Rhonda Kramer, Lead Economic Support Specialist  
Racine County Department of Human Services  
1717 Taylor Ave  
Racine, WI 53403-2497

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. On October 1, 2013, the Social Security Administration sent Petitioner a notice indicating that from September 1, 2013, onward, her son would not receive Supplemental Security Benefits. The

notice stated, "We will stop his payments as shown above beginning November 2013". (Exhibit7, pg. 2)

3. On November 22, 2013, the Social Security Administration sent the Petitioner a notice indicating that Petitioner was not eligible to receive Supplemental Security Benefits between April 1, 2013 and August 31, 2013. (Exhibit 7, pg. 3)
4. On December 1, 2013, the Social Security Administration sent the Petitioner a notice indicating that beginning January 1, 2014, her son would begin receiving Supplemental Security Benefits in the amount of \$721.00 per month and that \$72.10 of that would be withheld to recoup a prior overpayment. (Exhibit 7, pg. 3)
5. For December 2013, Petitioner's son actually received a Federal Supplemental Security payment in the amount of \$639.00. (Exhibit 4)
6. On December 9, 2013, the agency sent Petitioner a notice indicating that effective January 1, 2014, her FoodShare benefits would be ending because her household income was over the program limit. (Exhibit 3)
7. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on December 30, 2013. (Exhibit 1)
8. Petitioner's assistance group consists of three people. No one in her household is over age 60, nor is anyone blind. She has one child receiving Supplemental Security Benefits. (Testimony of Petitioner; Exhibit 3)
9. Petitioner's son also receives State SSI benefits, in the amount of \$84.78 per month, of which \$8.38 is recouped to repay an overpayment. (Exhibit 4)
10. Petitioner provided two paychecks from October 1, 2013 and October 25, 2013, for \$709.85 and \$726.80 respectively. Thus, Petitioner's gross monthly income is as follows:
 
$$\begin{aligned} \$709.85 + \$743.75 &= \$1453.60 \\ \$1453.60 \div 2 &= \$726.80 \text{ average weekly income} \\ \$726.80 \times 2.15 \text{ average bi-weekly pay periods per month} &= \$1562.62 \text{ per month} \end{aligned}$$

(Exhibit 4)
11. Petitioner pays rent in the amount of \$625.00 per month and is responsible for paying utilities. (Testimony of Petitioner; Exhibit 3, pg. 4)

### **DISCUSSION**

Petitioner filed an appeal to contest the closure of her Foodshare benefits, effective January 1, 2014.

The agency closed Petitioner's FoodShare benefits effective January 1, 2014, because it became aware in December 2013, through a data exchange, that her son was receiving Supplemental Security Income. (Testimony of [REDACTED]; Exhibits 3 and 4)

An agency must act on reported changes within 10 days of receiving verification of the reported change. *FoodShare Wisconsin Handbook (FSH)*, §6.1.3.1 Information received through a data exchange is considered "verified upon receipt". *FSH* §6.1.3.2

Consequently, when the agency was notified in December 2013 by the data exchange that the Petitioner's son was receiving Supplemental Security Benefits, it correctly acted on that change within ten days and re-determined Petitioner's household income and program eligibility.

Petitioner argues that the agency did not correctly calculate her income because it counted a Supplemental Security payment that her son did not receive in December 2013. However, income is budgeted prospectively, sometimes using estimated amounts. *FSH*, §4.1.1 As such, the agency should have used the anticipated Supplement Security Income for January 2014 for which the Social Security Administration issued notice on December 1, 2013.

Petitioner's anticipated gross income for January 2014 is calculated as follows:

\$1562.62 earned income  
 +\$648.90 Federal SSI for her son (\$72.10 recoupment is not counted as income per *FSH* §4.5.6.2)  
 +\$75.40 State SSI for her son (\$8.38 recoupment is not counted as income per *FSH* §4.5.6.2)

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Total Income: \$2286.92

To receive FoodShare benefits a household must have gross income below 200% of the Federal Poverty Level (FPL), though the gross income test does not apply where a household has a member over age 60. 7 *Code of Federal Regulations (CFR)*, §273.9(b); *FSH*, § 1.1.4. The agency must budget all income of the FS household, including all earned and unearned income. 7 *CFR* § 273.9(b); *FSH* § 4.3.1.

200% of the Federal Poverty Level for a household of three is \$3256 per month. *FSH* §8.1.1.; *See Exhibit 6*.

Petitioner's household income of \$2286.92 is less than the \$3256 200% FPL gross income limit, so the Petitioner is categorically eligible for FoodShare benefits.

Once a household passes the gross income test, the following deductions are applied to determine an individual's net income, which in turn, is used to determine the FoodShare allotment, if any (*FSH*, at § 4.6):

- (1) a standard deduction –

This is \$152 per month for a household of 1-3, 7 *CFR* § 273.9(d)(1):

- (2) an earned income deduction - which equals 20% of the household's total earned income, 7 *CFR* § 273.9(d)(2);

For Petitioner this is:  $\$1562.62 \times .20 = \$312.52$

- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 *CFR* § 273.9(d)(3);
- (4) dependent care deduction for child care expenses, 7 *CFR* § 273.9(d)(4); and
- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 *CFR* § 273.9(d)(5).

The heating standard utility allowance (HSUA) is \$450 per month.

There is a cap of \$478.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

*FSH*, §§ 4.6.7.1 and 8.1.3.

The term 'disabled' is a term with a definition as to the FoodShare program:

**3.8.1.1 EBD Introduction**

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

*FSH, §3.8.1.1.*

Applying the applicable deductions to Petitioner's income we have the following net income calculation:

Gross Income	\$2286.92	Rent	\$625.00
Earned Income Deduction	-\$312.52	HSU	+\$450.00
Standard Deduction	-\$152.00	50% Net income	-\$911.20
No Medical Expenses exceeding \$35			
No Dependent Care Expenses		Excess Shelter Expense	\$ 163.80
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Net Income Before Shelter Deduction	\$1822.40		
Excess Shelter Expense	- \$163.80		
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Net Income	\$1658.60		

Individuals, in a household of one, with a net income of \$1658.60 do not qualify for a FoodShare allotment.  
*FSH §§8.1.1 and 8.1.2*

**CONCLUSIONS OF LAW**

The agency correctly terminated the Petitioner's FoodShare benefits, effective January 1, 2014.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

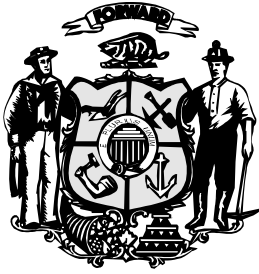
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 17th day of March, 2014.

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on March 17, 2014.

Racine County Department of Human Services  
Division of Health Care Access and Accountability